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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,076	09/12/2003	Michael Fischer	1163.1101101	9793

28075 7590 01/17/2006

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EXAMINER

MILLER, WILLIAM L

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/662,076	Applicant(s) FISCHER, MICHAEL	
	Examiner William L. Miller	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24, 29-31 and 34-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-24 is/are allowed.
- 6) ☒ Claim(s) 29-31 and 34-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The after-final amendment filed 12-29-2005 has been entered. Claims 1-24, 29-31, and 34-39 are pending.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the display stand configuration enabling the slab to be in a fully horizontal or fully vertical position (claims 38 and 39) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. Claim 38 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. It is unclear how an upright and angled position can be a fully horizontal position (i.e. 0 degrees). Moreover, both the terms “upright” and “angled” prohibit a fully horizontal position.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 29, 30, 31, 38, and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Robinson (US#6520606).

7. Regarding claim 29, Robinson discloses a system comprising: a mineral slab 190 (marble, col. 6, lines 16-17) having an upper surface and a bottom surface; a cremation urn assembly comprising a container body 120, neck portion 132, and lid 150; and a display stand 160 for supporting the urn and slab in an upright and angled (90 degrees to the horizontal) position.

8. Regarding claim 30, Robinson discloses a system comprising: a mineral slab 190 (marble, col. 6, lines 16-17) having an upper surface, a bottom surface, and an outer perimeter; a rectangular container body 120 (col. 5, lines 59-63); and a display stand 160 supporting the urn

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and slab wherein the slab is oriented in an upright and angled (slab has a vertical dimension which is 90 degrees to the horizontal) position.

9. Regarding claim 31, the marble slab inherently has a textured perimeter (smooth texture or unsmooth texture).

10. Regarding claim 38, since the slab has a horizontal dimension which is parallel (0 degrees) to the horizontal, then the slab is alternatively being viewed as in a fully horizontal position.

11. Regarding claim 39, the upright and angled position (90 degrees to the horizontal) is a fully vertical position.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crook (US#5647108) in view of Jackson (US#5379499).

14. Crook discloses a system comprising: a slab 20 having an upper surface and a bottom surface; a cremation urn assembly comprising a container body 12, neck portion 19, and lid 22; and a display stand 16 for supporting the urn and slab in an upright and angled (90 degrees to the horizontal) position.

15. Although Crook discloses in col. 1, lines 61-67, the slab can be made of stainless steel or any other material capable of resisting corrosion while maintaining structural integrity, Crook

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fails to specifically disclose the slab is formed of a mineral material as claimed by the applicant. However, the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). In any event, Jackson discloses in col. 4, lines 55-59, an urn 10 constructed of stainless steel or a mineral material (stone, marble, granite, alabaster, etc.) for a durable, aesthetically pleasing urn. Therefore, as taught by Jackson, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Crook by forming the slab from a mineral material for its inherent strength and aesthetic properties.

16. Claims 30, 31, and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crook (US#5647108) in view of Jackson (US#5379499), and further in view of Robinson (US#6520606).

17. Crook discloses a system comprising: a slab 20 having an upper surface, a bottom surface, and an outer perimeter; a container body 12; and a display stand 50 supporting the urn and slab wherein the slab is oriented in an upright and angled position (Figs. 5-7).

18. Although Crook discloses in col. 1, lines 61-67, the slab can be made of stainless steel or any other material capable of resisting corrosion while maintaining structural integrity, Crook fails to specifically disclose the slab is formed of a mineral material as claimed by the applicant. However, the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). In any event, Jackson discloses in col. 4, lines 55-59, an urn 10 constructed of stainless steel or a mineral material (stone) for a durable, aesthetically pleasing urn. Therefore,

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as taught by Jackson, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Crook by forming the slab from a mineral material for its inherent strength and aesthetic properties.

19. Although Crook discloses the container body can be cylindrical or non-cylindrical (col. 3, lines 5-6), Crook fails to specifically disclose the container body is rectangular as claimed by the applicant. However, a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). In any event, Robinson discloses a system wherein container body 120 can be cylindrical or rectangular depending on aesthetic preference (col. 5, lines 59-63). Therefore, as taught by Robinson, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Crook by utilizing a rectangular container body for aesthetic purposes.

20. Regarding claim 31, the stone slab taught by Jackson inherently has a textured perimeter.

21. Regarding claim 34, Crook discloses the container body is stainless steel (col. 1, lines 61-67).

22. Regarding claim 35, the display stand includes a plurality of support legs 56.

23. Regarding claim 36, the stand 50 is rectangular.

24. Regarding claim 37, the angle of the slab is between fully horizontal and fully vertical, i.e. between 0-90 degrees from the horizontal.

Allowable Subject Matter

25. Claims 1-24 are allowed.

Response to Arguments

26. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

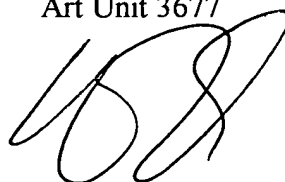
27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Miller
Primary Examiner
Art Unit 3677



WLM